IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Bail Appl..No. 5573 of 2007()

CRIME NO.558/07 OF MANJERI POLICE STATION

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PETITIONER : ACCUSED

ASOKAN, S/O.RAMACHANDRAN
MELEKUNDIL HOUSE,
THADAPARAMBIL, MANJERI
MALAPPURAM DISTRICT

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: STATE

THE STATE OF KERALA, REPRESENTED BY
THE SUB-INSPECTOR OF POLICE
MANJERI POLICE STATION - THROUGH
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 5573 of 2007

Dated this the 17th day of September, 2007

ORDER

Application for regular bail. The petitioner faces allegations under Sec.376 of the IPC. The crux of the allegations is that the petitioner – a 31 year old married person, allegedly committed rape twice on a 19 year neighbour. The girl did not complain of the incident on the first occasion allegedly because of threats of the petitioner. Later, a complaint was lodged on 19/8/07. The alleged incident took place on 10/8/07. The petitioner was arrested on 20/8/07. He continues in custody from that date.

2. The learned counsel for the petitioner submits that the allegations are false. The medical examination does not reveal any indications to suggest a sexual intercourse. The hymen was in tact. The petitioner may now be enlarged on bail, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor does not oppose the

application. He only submits that appropriate conditions may be imposed.

4. I have considered all the relevant inputs. It is not invariable that rupture of hymen must be seen in all cases of rape. It depends on the extent of sexual penetration. Be that as it may, I am satisfied that the petitioner can now be enlarged on bail subject, of course, to appropriate conditions.

5. **In the result:**

(a) The application is allowed.

(b) The petitioner shall be released on bail on the following terms and conditions:

(i) The petitioner shall execute a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer on all Mondays between 10 a.m. and 12 noon for a period of two months and thereafter as and when directed by the Investigating Officer in writing to do so.

(iii) During the said period of two months, the petitioner shall not enter the jurisdiction of the Manjeri Police Station

without the prior permission of the learned Magistrate, except for the purpose of complying with Condition No.(ii) above.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge